

## REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1, 5-7, 10-11, 14-16, 21 and 23 have been amended to present the claims in better form for allowance and for possible consideration on appeal. Applicants respectfully request the Examiner to accept the proposed amendments. Claims 12-13, 17-20 and 24-26 have been cancelled without prejudice. No new claims have been added. Therefore, claims 1-11, 14-16 and 21-23 are now are presented for examination.

### 35 U.S.C. § 102 Rejection

Claims 1, 3-4, 6, 9-11, 14-16, 21 and 23 are rejected under 35 U.S.C. §102(b), as being anticipated by Fee, et al., U.S. Patent No. 5,522,042 ("Fee").

Claim 1, as amended, recites:

A method comprising:

electing a first server from a plurality of servers to serve as active manager server to manage services for the plurality of servers residing in a chassis, the election of the first server is based on a predetermined criteria;

continuously communicating health metrics and performance metrics relating to each server with other servers of the plurality of servers in the chassis to avoid reconfiguring the plurality of servers when replacing a failed server with a new server, and to avoid interrupting the first server from serving as the active manager server;

predicting a server failure based on predetermined thresholds, the predetermined thresholds are tested based on current status of the health metrics and the performance metrics relating to the plurality of servers;

receiving an indication of the failed server;

determining whether the failed server includes the first server;

electing a second server to replace the failed server to serve as the active manager server based on the predetermined criteria, if the failed server includes the first server;

automatically replacing the first server with the second server to serve as the active manager server to provide an interrupted management of the services for the plurality of servers in the chassis; and

continuously communicating the health metrics and the performance metrics of each server, including the second server, between the plurality of servers in the chassis.  
(emphasis added)

Fee discloses “allocating *the performance of applications in a networking chassis* among one or more modules in the chassis. In particular, the system acts as a chassis agent for *performing network management functions*. The agent performs a discovery function whereby each module discovers the location and current utilization of resources and applications for itself and transmits that information to other modules, and wherein each module maintains a slot table of such information for all modules. Based on the information in the slot table, each module performs *an election function for allocating applications among the various modules in the chassis*.” (Abstract, lines 1-12; emphasis provided). Fee further discloses that the slot table includes “*basis information about module 50*, such as: Slot ID, LLAP address, MAC address, IP address, Module Type.” (col. 6, lines 58-67).

In contrast, claim 1, as amended, in pertinent part, recites “electing a first server from a plurality of servers to serve as active manager server . . . based on a predetermined criteria; continuously communicating health metrics and performance metrics relating to each server with other servers of the plurality of servers . . . to avoid reconfiguring the plurality of servers when replacing a failed server with a new server, and to avoid interrupting the first server from serving as the active manager server . . . predicting a server failure based on predetermined thresholds, the predetermined thresholds are tested based on current status of the health metrics and the performance metrics relating to the plurality of servers . . . electing a second server to replace the failed server . . . automatically replacing the first server with the second server to serve as the active manager server to provide an interrupted management of the services . . .”

continuously communicating the health metrics and the performance metrics of each server". (emphasis added) Fee does not teach or reasonably suggest at least these features of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 10 and 21 contain limitations similar to those of claims 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 10 and 21 their dependent claims.

### **35 U.S.C. § 103 Rejection**

Claims 2 and 22 are rejected under 35 U.S.C. §103(a), as being unpatentable over Fee.

Claims 5, 7 and 8 are rejected under 35 U.S.C. §103(a), as being unpatentable over Fee, in view of Fung, U.S. Patent Publication No. 2002/0062454 ("Fung").

Claims 2, 5, 7-8 and 22 depend from one of claims 1 and 21 and thus include all the limitations of the base claim. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 2, 5, 7-8 and 22.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

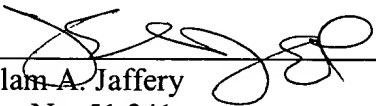
### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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